



INTERNATIONAL BUSINESS MACHINES CORPORATION
DEPT. 18G
BLDG. 300-482
2070 ROUTE 52
HOPEWELL JUNCTION NY 12533

COPY MAILED

FEB 05 2004

OFFICE OF PETITIONS

In re Application of
Chen, et al.
Application No. 10/622,477
Filed: July 18, 2003
Attorney Docket No. FIS920030102US1
For: VERTICAL MOSFET WITH DUAL
WORK FUNCTION MATERIALS

:
:
: DECISION ON
: PETITION
:
:

This is a decision on the petition, filed November 6, 2003 (certificate of mailing date November 4, 2003), requesting that Figure 1 be accorded a filing date of July 18, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was filed on July 18, 2003. On October 22, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" informing petitioners that Figure 1, as described in the specification, appeared to have been omitted.

Petitioners request that Figure 1 be accorded a filing date of July 18, 2003 on the basis that 13 sheets of drawing figures, including Figure 1, were received in the Patent and Trademark Office (PTO) on July 18, 2003. In support, the instant petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing July 18, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 13 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 13 sheets of drawing figures were filed on July 18, 2003. MPEP 503. A review of the application file reveals that there are 12 sheets of drawing figures present, depicting Figures 2 and 3A-3V.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **July 18, 2003**, using the copy of Figure 1 submitted with the instant petition.

Office records will be corrected to show that 13 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

A handwritten signature in cursive script, reading "E. Shirene Willis".

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions